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10/560,207

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Ralf Wiedemann

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EXAMINER

YOO, REGINA M

ART UNIT

PAPER NUMBER

1797

MAIL DATE

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/560,207	<b>Applicant(s)</b> WIEDEMANN ET AL.	
	<b>Examiner</b> REGINA YOO	<b>Art Unit</b> 1797	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2008.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 11,13-15,17-19,21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12, 16 and 20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **FINAL ACTION**

### ***Response to Amendment***

The amendment filed on 4/07/2008 has been received and claims 1-22 are pending.

### ***Election/Restrictions***

1. Claims 11, 13-14, 17-19 and 21-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to nonelected groups and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 10/30/2007.

2. Newly amended claim 15 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: the newly added limitation of "a sleeve arranged around the exterior of the channel" is disclosing the invention presented in Figure 2, Specie B.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 15 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7-10, 12 and 20 are rejected under 35 U.S.C. 102(b) as anticipated by Graves (6077484).

As to Claim 1, Graves ('484) discloses an automatic washing machine detergent dispensing device (10) (see entire document, particularly Figures 1-2, where a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim); where the device is automatic in that a detergent composition from a detergent bar (T) is dispensed without manual assistance as water enters and dissolves the detergent bar (Tb, Tl; T) during the wash cycle(s)) comprising a detergent bar (Tb, Tl; T) comprising a detergent composition (see entire document, particularly Col. 6 lines 55-57), said detergent bar (Tb, Tl; T) disposed within a channel (50), wherein the detergent bar (Tb, Tl; T) completely fills at least a portion of the channel (50) across the entire bore of the channel (50) and at least a portion of the

detergent bar (T and portions of Tb and TI) contacts the channel (50) and is not exposed to the wash liquor (see Figure 4), the channel (50) having an inlet aperture (at 51 and/or 54) which is in communication therewith.

As to Claims 2-4, Graves ('484) discloses that the channel (50) has a uniform bore along its length filled by the detergent bar (T) (see entire document, particularly Figure 4) wherein the channel (50) is a cylindrical tube (see entire document, particularly Figure 4).

As to Claims 5 and 9, Graves ('484) discloses that the channel (50) has one open end (52) which comprises/communicates with the inlet aperture (54).

As to Claim 7, Graves ('484) discloses that the channel (50) has a plurality of open ends (54) each of which being in communication with an inlet aperture (at 51) (see entire document, particularly Figure 2).

As to Claim 8, Graves ('484) discloses that the channel (50) comprises a tube both ends of which are open (see Figure 2).

As to Claims 10 and 12, Graves ('484) discloses that the channel (50) has a plurality of separate secondary apertures (54) (see entire document, particularly Figures 2 and 4).

As to Claim 20, Graves ('484) discloses that the channel (50) comprises a water insoluble material (see entire document, particularly Col. 6 lines 61-63).

5. Claims 1, 3-6 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Mehus (20040226961).

As to Claim 1, Mehus ('961) discloses an automatic washing machine detergent dispensing device (10) (see pp. 3-4 [0031]-[0033] and p. 5 [0041]); where the device is automatic in that a detergent composition from a detergent bar (20a) is dispensed without manual assistance as water enters and dissolves the detergent bar (20a) during the wash cycle(s)) comprising a detergent bar (20a) comprising a detergent composition (see entire document, particularly Abstract and p. 1 [0004] and [0008]), said detergent bar (20a) disposed within a channel (20), wherein the detergent bar (20a) completely fills at least a portion of the channel across the entire bore of the channel (20) and at least a portion of the detergent bar (20a) contacts the channel and is not exposed to the wash liquor (see Figure 9), the channel (20) having an inlet aperture (20b) which is in communication therewith.

As to Claims 3-4, Mehus ('961) discloses that the channel is a cylindrical tube (see entire document, particularly Figures 1-9).

As to Claims 5-6 and 9, Mehus ('961) discloses that the channel (20) has one open end which communicates with the inlet aperture (20b), comprising a form similar to a drinking glass (see entire document, particularly Figure 9).

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

8. Claims 2 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Mehus (20040226961).

As to Claim 2, while Mehus ('961) discloses one specific channel configuration as shown in Figures and does not appear to specifically teach that the channel has a uniform bore, which along its length or at least along the portion of its length filled by the detergent bar, Mehus ('961) discloses that "other shapes and configuration may also be used" and thus, it would have been obvious and well within the purview of one of

ordinary skill in this art at the time of invention to provide a capsule with a channel having a uniform bore, which along its length or at least along the portion of its length filled by the detergent bar. Only the expected results would be attained.

As to Claim 20, while Mehus ('961) discloses that the capsule/channel (20) contains the detergent composition such that it is held in place while a diluent is sprayed onto the detergent composition for dissolution, Mehus ('961) does not appear to specifically teach that the channel (20) comprises a water-resistant or water insoluble material. However, it was well known in the art at the time of invention to utilize material such as plastic composition that is water-resistant or water insoluble to form a capsule/channel that contains a detergent composition/bar, and it would have been obvious to one of ordinary skill in this art at the time of invention that the capsule/channel material is a water-resistant or water insoluble material in order to hold/contain a detergent bar/composition so that it does not dissolve or become affected by ambient moisture prior to use or during the use as is well known in the art.

9. Claim 16 is rejected under 35 U.S.C. 103(a) as obvious over Graves (6077484).

While Graves ('484) discloses that the channel has a secondary aperture (54), Graves does not appear to specifically teach that the diameter of the secondary aperture is less than 5 mm. However, it would have been obvious and well within the purview of one of ordinary skill in the art to engineer/modify the size of the diameter of the secondary aperture of Graves to any size, such as less than 5 mm, in order to

provide correct amount of exposure of the detergent bar ( $T_b$ ,  $T_I - T$ ) to the fluid flow so as to provide a desired/appropriate chemical dosage. Only the expected results would be attained.

### ***Response to Arguments***

10. Applicant's arguments with respect to claims 1-10, 12, 15-16 and 20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to REGINA YOO whose telephone number is (571)272-6690. The examiner can normally be reached on Monday-Friday, 10:00 am - 7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on 571-272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RY

/Jill Warden/  
Supervisory Patent Examiner, Art Unit 1797